

From: Mark A. Montgomery
To: Microsoft ATR
Date: 1/28/02 12:29pm
Subject: Microsoft Settlement.

C/O Renata B. Hesse, Antitrust Division,
U.S. Department of Justice,
601 D. Street NW. Suite 1200,
Washington, DC 20530-0001

To: Judge Colleen Kollar-Kotelly

My name is Mark Montgomery. My background includes being an entrepreneur and management consultant who was also an early booster to Microsoft dating back to 1981. Since that time, my consulting assignments have numbered in the hundreds, including dozens of small businesses in networked industries and recently specifically within the IT industry cluster.

I converted our business consulting firm in 1995 into an independent tech incubator and lab. My only business partner joined our firm in 1997 after working for Microsoft for 17 years. I myself trained with Microsoft products to become an NT network administrator, programmer, and analyst who has tested every major public technology Microsoft produced during the period of this case, watching in amazement and sometimes horror at the pace of justice when compared to the environment in question.

I am writing today primarily because circumstances in this case may allow me to see more potential areas of damage than others. As any of us who have worked in predatory environments know all too well, it is rarely what we see that threatens our system, but rather what we cannot. In this case, I do not believe that any human is capable of identifying even a small portion of the damage being done to consumers, much less society, including of course eventually Microsoft and their investors.

I would like to explain some of our attempts to work with Microsoft at every level, and the extreme financial stress, disappointment and embarrassment a few of their executive actions have caused us and others, but the topic today is on the proposed settlement pursuant to the Tunney Act.

I have carefully studied the proposed settlement as well as every document filed in this case since the beginning of the trial. In the early stages of the case, I provided analysis for the members of our global digital network.

In addition, I may have been the first to publicly label Microsoft a threat to the global economy, one of the most difficult declarations of my career that may also partially account for our failure in attracting external funding to our ventures.

For me, this case represents a test of the very credibility of the U.S. justice system. Although the case history has been difficult, and I have not

always agreed with the rulings or conduct of the court, the system credibility was from my view in a recovery phase until the USDOJ agreed to settle as proposed. The agreement of the USDOJ to settle on the proposed grounds is where the system broke down entirely. I'll leave it to others to speculate and/or determine why.

The proposed settlement is a disgrace and an insult to those of us who risked everything we had, and often lost, to speak out against what I believe ranks among the most dangerous threats to the future of the world in our time; the ability of innovative technology to be conceived, hatched, and reach maturity. I fear that if the proposed settlement is adopted, and the EU and Congress also fail to restore liberty within global IT markets, that our creative scientific genius will fail to meet the significant challenges lying directly in our collective path.

Therefore, from my perspective, the world simply cannot afford to allow the proposed settlement to stand. It would be more favorable to risk having an appeal overturned on technical grounds, and allow the political process to work (or not), than to suffer the stamp of approval from the very entity charged to defend and protect us against illegal predatory practices.

A portion of the still untold story of modern predatory strategy, generally speaking, is just how successful preventative efforts have become with respect to the invisible potential competition, and that topic is certainly not limited to Microsoft. Indeed Microsoft is a nascent latecomer in that regard when compared to the more historically entrenched vertical industry leaders, revealing another glimpse of why justice must be served in this case.

I submit to you that a just conclusion to this case is entirely possible, but a negotiated settlement that provides justice may not be.

Thank you for your consideration of my views, and God's speed in your work.

Mark A. Montgomery
Founder/CEO
Global Web Interactive Network LLC